

(a) *Principal mortgagee.* The insured loan shall be held by an approved lender which, for the purposes of this section, shall be referred to as the *principal lender*.

(b) *Interest of principal lender.* The principal lender shall retain and hold for its own account a financial interest in the insured loan.

(c) *Qualification for holding partial interest.* A partial interest in an insured loan shall be issued to and held only by:

(1) A lender approved by the Commissioner; or

(2) A corporation, trust or organization (including, but not limited to any pension fund, pension trust, or profit-sharing plan) which certifies to the principal lender that:

(i) It has assets of \$100,000 or more; and

(ii) It has lawful authority to acquire a partial interest in an insured loan.

(d) *Participation agreement provisions.* The participation agreement shall include provisions that:

(1) The principal lender shall retain title to the loan and remain the lender of record under the contract of loan insurance.

(2) The Commissioner shall have no obligation to recognize or deal with anyone other than the principal lender with respect to the rights, benefits, and obligations of the lender under the contract of insurance.

(3) The loan documents shall remain in the custody of the principal lender.

(4) The responsibility for servicing the insured loans shall remain with the principal lender.

EXTENSION OF TIME

§ 203.496 Actions to be taken by mortgagee or lender.

With respect to any action required by the mortgagee or lender within a period of time prescribed by this subpart the Commissioner may extend such period.

AMENDMENTS

§ 203.499 Effect of amendments.

The regulations in this subpart may be amended by the Secretary at any time and from time to time, in whole or in part, but such amendment will

not adversely affect the interests of a mortgagee under the contract of insurance on any mortgage or loan already insured, and will not adversely affect the interest of a mortgagee on any mortgage or loan to be insured for which either the Direct Endorsement or Lender Insurance mortgagee has approved the mortgagor and all terms and conditions of the mortgage or loan, or the Secretary has issued a firm commitment. In addition, such amendment will not adversely affect the eligibility of specific property if such property is covered by a conditional commitment issued by the Secretary, a certificate of reasonable value issued by the Secretary of Veterans Affairs, or an appraisal report approved by a Direct Endorsement or Lender Insurance underwriter.

[62 FR 30227, June 2, 1997]

Subpart C—Servicing Responsibilities

SOURCE: 41 FR 49736, Nov. 10, 1976, unless otherwise noted.

GENERAL REQUIREMENTS

§ 203.500 Mortgage servicing generally.

This subpart identifies servicing practices of lending institutions that HUD considers acceptable for mortgages insured by HUD. Failure to comply with this subpart shall not be a basis for denial of insurance benefits, but a pattern of refusal or failure to comply will be cause for withdrawal of HUD's approval of a mortgagee. It is the intent of the Department that no mortgagee commence foreclosure or acquisition of a property until the requirements of this subpart have been followed.

[61 FR 35019, July 3, 1996]

§ 203.501 Loss mitigation.

Mortgagees must consider the comparative effects of their elective servicing actions, and must take those appropriate actions which can reasonably be expected to generate the smallest financial loss to the Department. Such actions include, but are not limited to, deeds in lieu of foreclosure under § 203.357, pre-foreclosure sales under

§ 203.370, partial claims under § 203.414, assumptions under § 203.512, special forbearance under §§ 203.471 and 203.614, and recasting of mortgages under § 203.616. HUD may prescribe conditions and requirements for the appropriate use of these loss mitigation actions, concerning such matters as owner-occupancy, extent of previous defaults, prior use of loss mitigation, and evaluation of the mortgagor's income, credit and property.

[59 FR 50145, Sept. 30, 1994, as amended at 61 FR 35019, July 3, 1996]

§ 203.502 Responsibility for servicing.

(a) After January 10, 1994, servicing of insured mortgages must be performed by a mortgagee that is approved by HUD to service insured mortgages. The servicer must fully discharge the servicing responsibilities of the mortgagee as outlined in this part. The mortgagee shall remain fully responsible to the Secretary for proper servicing, and the actions of its servicer shall be considered to be the actions of the mortgagee. The servicer also shall be fully responsible to the Secretary for its actions as a servicer.

(b) Whenever servicing of any mortgage is transferred from one mortgagee or servicer to another, notice of the transfer of service shall be delivered:

(1) By the transferor mortgagee or servicer to the mortgagor. The notification shall be delivered not less than 15 days before the effective date of the transfer and shall contain the information required in § 3500.21(e)(2) of this title; and

(2) By the transferee mortgagee or servicer:

(i) *To the mortgagor.* The notification shall be delivered not less than 15 days before the effective date of the transfer and shall contain the information required in § 3500.21(e)(2) of this title; and

(ii) *To the Secretary.* This notification shall be delivered within 15 days of the transfer, in a format prescribed by the Secretary.

[36 FR 24508, Dec. 22, 1971, as amended at 57 FR 47974, Oct. 20, 1992; 57 FR 58349, Dec. 9, 1992; 59 FR 65448, Dec. 19, 1994; 61 FR 36266, July 9, 1996]

§ 203.508 Providing information.

(a) Mortgagees shall provide loan information to mortgagors and arrange for individual loan consultation on request. The mortgagee must establish written procedures and controls to assure prompt responses to inquiries. One or more of the following means of making information readily available to mortgagors is required:

(1) An office staffed with competent personnel located within 200 miles of the property, capable of providing timely responses to requests for information. Complete records need not be maintained in such an office if the staff is able to secure needed information and pass it on to the mortgagor.

(2) Toll-free telephone service at an office capable of providing needed information.

(b) All mortgagors must be informed of the system available for obtaining answers to loan inquiries, the office from which needed information may be obtained and reminded of the system at least annually. Toll-free telephone service need not be provided to a mortgagor other than at the office designated to serve the mortgagor nor other than from the immediate vicinity of the security property.

(c) Within thirty days after the end of each calendar year, the mortgagee shall furnish to the mortgagor a statement of the interest paid, and of the taxes disbursed from the escrow account during the preceding year. At the mortgagor's request, the mortgagee shall furnish a statement of the escrow account sufficient to enable the mortgagor to reconcile the account.

(d) Mortgagees must respond to HUD requests for information concerning individual accounts.

(e) Each servicer of a mortgage shall deliver to the mortgagor a written notice of any assignment, sale, or transfer of the servicing of the mortgage. The notice must be sent in accordance with the provisions of § 3500.21(e)(1) of this title and shall contain the information required by § 3500.21(e)(2) of this